



Jammu and Kashmir State Information Commission

جموں اینڈ کشمیر اسٹیٹ انفارمیشن کمیشن

(Constituted under the Right to Information Act, 2009)

Wazarat Road, near DC Office Jammu, 0191-2520947, 2520937

Old Assembly Complex, Srinagar, 0194-2506660, 2506661

www.jksic.nic.in

File No. SIC/K/SA/30/2018

Decision No. SIC/K/SA/30/2018/38

Final Order

Appellant : Dr. Sheikh Gh. Rasool

Respondents : First Appellate Authority (FAA)/ DIG(Prisons Deptt) J&K /Public Information Officer (PIO)/ Superintendent, Central Jail, Rainawari, Srinagar

Date of Registration : 09.03.2018.

Date of Decision : 19.06.2018.

The brief facts of this 2nd appeal are that the appellant filed the 2nd appeal before the State Information Commission (SIC) on 09.03.2018 stating therein that he filed an RTI application dated 07.09.2017 before the PIO/Superintendent Central Jail, Srinagar seeking information on 8 queries

as mentioned in the said RTI application. As the PIO did not provide the requisite information to him within the stipulated time, the appellant filed First Appeal before the FAA/Superintendent Central Jail Srinagar on 14.11.2017. Later on, the PIO/Superintendent, Central Jail vide his No. CJS/MJ/RTI/2017/3030 dated: 21.11.2017 provided part information regarding non-official visitors on the Board of Visitors but no information was provided about the previous Board of Visitors and query at para 8 of the RTI application while as the FAA did not even hear the First Appeal and as such the appellant filed the instant 2nd appeal before the SIC with the request that the respond PIO/FAA be directed to provide to him the requisite information as per his basic RTI application dated 07.09.2017 and penalty as per the provisions of the J&K RTI Act may be imposed upon the FAA and the PIO for not providing him the requisite information within the stipulated time . The appellant has also asked for taking a serious view of non-disposal of First Appeal by the FAA in violation of the J&K RTI Act, 2009 by the said FAA.

This second appeal first came up for hearing on 12.04.2018 on which date the appellant was present but the respondents were absent. The respondents were accordingly sent a notice vide No. SIC/K/SA/30/2018/1153-54 dated: 18.04.2018 conveying the orders of the Commission issued on 12.04.2018.

The statutory time period of sixty days in this 2nd appeal had expired on 08.05.2018 and accordingly the time period for disposal was further extended by another sixty days in terms of section 16 (11) of the J&K RTI Act, 2009 to enable the SIC to conduct more hearings

for judicious and appropriate disposal in the interest of the objectives of the J&K RTI Act, 2009.

The second appeal came up for hearing again on 15.05.2018. The appellant didn't attend, however, the respondents were represented /Sh. Abdul Khaliq Mir, Deputy Superintendent, Central Jail, Srinagar. The FAA as well as the PIO did not attend. As per the communication from the Deputy Superintendent, Central Jail dated: 15.05.2018, the Senior Superintendent, Central Jail, Srinagar was away on account of court attendance before the Additional Sessions Judge Anantnag but nothing has been reported about the non-attendance of FAA.

In the counter statement filed by the Superintendent, Central Jail, Srinagar on 25.04.2018, it was intimated that the Superintendent, Central Jail had joined recently and that his predecessor had not disclosed any pending information under the RTI Act at the time of handing over the charge. Similarly, he had given the reason for non-attendance on 12.04.2018 as being away to Jammu for official work.

In the hearing on 15.05.2018, it was observed that the conduct of the Superintendent, Central Jail, Srinagar who is reportedly the PIO, has been found to be unbecoming of an officer who has been given the responsibility of looking after after an important institution like the Central Jail, Srinagar. He has not cared to attend the hearing before the Commission and has given vague reasons for non-attendance last time on 12.04.2018 of official duty at Jammu and this time that of court attendance rather than attending hearing in the State Information Commission despite advance notice. The FAA has also not responded to the Commission's

notice and there is no communication about the reasons for his non-attendance on the two occasions. The Superintendent, Central Jail, Srinagar had also not clarified in his communication dated: 25.04.2018 and 15.05.2018 as to who was the designated FAA for the Central Jail, Srinagar. He had also not indicated the name and address of the FAA to the RTI applicant in the reply dated: 21.11.2017, although that is mandatory under section 7(3) (b). In the background of what had been stated above, following directions were issued on 15.05.2018.

- 1. The PIO/Superintendent, Central Jail, Srinagar shall explain as to why penalty under section 17 may not be imposed upon him for violation of section 7(1) and for providing incomplete information to the RTI applicant although delayed by more than one month.**
- 2. The FAA who is reportedly the DIG in the office of the DG Prisons is asked to explain the violation of the RTI Act by him under section 16 as the FAA and, therefore, why this violation may not be reported to his administrative department i.e. Home Department.**
- 3. The PIO/Superintendent, Central Jail shall reformulate a para wise reply to the RTI application and provide the same to the RTI applicant (now appellant) within a period of 15 days from the date of receipt of this order. This is because the information provided by the PIO/Superintendent, Central Jail, Srinagar vide reply dated: 21.11.2017, is incomplete as it does not provide**

information about all the queries/paras in the RTI application.

With the above directions, hearing in the 2nd appeal was adjourned with directions to registry to send a copy of this order to all the concerned including the FAA, the PIO and the appellant, besides the DG Prisons and the Principal Secretary, Home Department.

The second appeal finally came up for hearing today on 19.06.2018. Mr. Mukesh Kakar, PIO/Superintendent Central jail Srinagar and appellant Dr. Sheikh Gh. Rasool attended the hearing.

During the proceedings, Mr Mukesh Kakar, PIO/Superintendent, Central Jail, Srinagar submitted that in pursuance of the directions of the Commission dated 17.05.2017 and in continuation to his office communication bearing No. CJS/MJ/RTI/2017/3030 dated: 21.11.2017, detailed information as per the format made available to his office was sent to the appellant vide No.CJS/MJ/RTI/2018/813-15 dated 23.05.2018. The appellant, however, denied receipt of the same.

Registry is directed to send Xerox copy of letter No.CJS/MJ/RTI/2018/813-15 dated 23.05.2018 along with para wise reply comprising one leaf enclosure to the appellant within one week from the issuance of this order. The appellant is directed to go through the para wise reply to his RTI application. In case he is not satisfied with the same, he may file a complaint before the Commission under Section-15 of the Act.

The Commission has taken a serious view of the failure of the FAA/DIG (Prisons) failing to attend the hearings in the Commission from time to time in the instant 2nd appeal. The SIC has also taken a serious exception of the conduct of the FAA who vide interim order dated 15.05.2017 was directed to explain the violation of the RTI Act by him under section-16 as the FAA and was directed to explain as to why this violation on his part may not be reported to his administrative department i.e. Home Department. The FAA has not only failed again in attending today's hearing, but has also failed in giving any written response with regard to his failure in attending previous hearings in the SIC. Accordingly, the registry is directed to issue show cause notice to the FAA as to why he has time and again failed to attend the hearings in the SIC. His reply, if any, should reach the Commission within 10 days from the date of issue of this order.

Moreover, the PIO/Superintendent Jail is also directed to explain as to why he failed to respond to the RTI application in question within the stipulated time as per the provisions of the J&K RTI Act, His reply if any, should reach the Commission within 15 days from the date of receipt of this order, failing which or in the event his reply is found unsatisfactory, action under rules shall be initiated against him.

With the above directions, the 2nd appeal filed before the SIC is disposed of.

(Khurshid A. Ganai)
Chief Information Commissioner

Copy to the:

1. FAA/ Dy. Inspr. General of Police, in the O/o DG Prisons, J&K Srinagar
2. PIO/Superintendent of Central Jail, Srinagar
3. Private Secretary to CIC for information of the HCIC
4. Appellant— Dr. Sheikh Ghulam Rasool, C/o J&K RTI Movement, head office Malik house Hyderpora near Al-Amin Hospital, airport Road Srinagar
5. Office file

(Sheikh Fayaz Ahmad)
Registrar
J&K State Information Commission